"The prayer of the bill is that the committee be restrained from keeping the messages or making any use of them or disclosing their contents. In other words, that if we find that the method adopted to obtain the telegrams was an invasion of appellant's legal rights, we should say to the committee and to the Senate that the contents could not be disclosed or used in the exercise by the Senate of its legitimate functions. We know of no case in which it has been held that a court of equity has authority to do any of these things. On the contrary, the universal rule, so far as we know it, is that the legislative discretion in discharge of its constitutional functions, whether rightfully or wrongfully exercised, is not a subject for judicial interference." [58]

The court relied upon the doctrine of separation of powers, and quoted several Federal court decisions for the proposition that the Judiciary lacks power to enjoin the enactment of even unconstitutional measures.[59]

In *Mins* v. *McCarthy*, 209 F. 2d 307 (D.C. Cir., 1953) the Court of Appeals held per curiam that where a committee of the Congress has issued a subpena ad testificandum to a witness to appear at a hearing, without defining the questions to be asked, "the judicial branch of Government should not enjoin in advance the holding of the hearing or suspend the subpena."

More recently in *Methodist Federation for Social Action* v. *Eastland*, 141 F. Supp. 729 (D.C. 1956), a three-judge court, including Judges Eigerton and Prettyman, dismissed a complaint in an action by a religious social action organization against members of the Senate Internal Security Subcommittee and others seeking a declaration that a certain congressional resolution directing publication of a certain Senate Document was unconstitutional, and an order enjoining defendants from printing and distributing the document. The court held that it lacked power to prevent the publication, since the document was ordered printed pursuant to resolution of both House and Senate, even if the document falsely declared that the organization was a communist front. It deemed article I, section 6, of the Constitution applicable. It also cited and relied upon the Hearst case, supra, in deciding that a judgment for the plaintiff would invade the constitutional doctrine of separation of powers. As to the members of the Senate subcommittee, the complaint was dismissed for lack of jurisdiction; as to the other defendants, the Public Printer and Superintendent of Documents, was dismissed for failure to state a claim on which relief could be granted.

Thus, it seems reasonably clear that the doctrine of legislative immunity or the doctrine of separation of powers, contained in the Constitution and the precedents discussed above would lead a court to dismiss a suit brought by the port authority against the committee, subcommittee, or members thereof on the grounds of congressional immunity.

Waiver of Immunity

It may be, although it has not yet been, suggested by adherents of the port authority that members of the committee might facilitate a declaratory judgment action by the port authority by waiving their immunity provided by article I, section 6, of the Constitution. It is submitted that this suggestion lacks merit.

In the first place, the congressional immunity doctrine is not the sole legal bar to a suit by the port authority, if it is a bar at all. In *Hurst* v. *Black, supra,* the Court in dismissing the action relied primarily on the doctrine that Judiciary lacks power to enjoin congressional activity under the doctrine of constitutional separation of powers. Application of this doctrine by a court is, of course, beyond the power of any member of the committee to control.

Second, it is very doubtful whether a Congressman could independently waive his immunity in order to open the way for a suit of this nature. It is well known that Representatives must secure the authorization of the House to even appear in a judicial proceeding when served with process. It would seem then that a resolution of the House, if not an act of Congress, would be required to authorize a Member of Congress to waive his immunity.[60] Carrying the matter even one step further, it is not even clear that Congress could constitutionally authorize a waiver of immunity. The Constitution provides that Senators and Representatives "shall not be questioned in any other place" for "any speech or debate in either House." Notwithstanding this provision, can one House of Congress provide that a Representative shall be so questioned?

Third, even if a waiver could be successfully executed, a court might feel that such a waiver of immunity had been motivated by a desire to obtain from the court an "advisory" opinion on the constitutional issues involved. It therefore might exercise its discretion to dismiss the suit on grounds of "justiciability."

3. Other objections

Assuming, for the sake of argument, that the port authority managed to get its foot in the door of a court in a declaratory judgment suit against the members of the committee, its troubles would not be over. It would still have to secure a decision from the lower court and it would ultimately have to convince the Supreme Court to take the case up on its merits. The same principles of "justiciability," which have been discussed in this memorandum in outlining the problems of a suit by the committeee, would obtain in a suit by the port authority. It is true that the port authority might have "standing" to raise the constitutional issues involved, where the committee did not possess such standing, because the port authority could show that it would be prejudiced by operation of the committee's action. However, the port authority would still have to show that constitutional adjudication was necessary as a last resort, that the suit was not one for "advice," that "abstract questions" were not being pressed, and that the suit was truly "adverse." As has been suggested earlier, any attempt by the committee to "cooperate" in such a suit (might not only be deemed collusive) it might also convince the Supreme Court that premature "advice" on broad constitutional questions was being asked.

CONCLUSIONS

When all is said and done, one is still left with the question: if the port authority thought there was any possibility for a successful action for a declaratory judgment, why did it not bring such a suit itself? It at least could have established the applicability of the doctrine of congressional immunity to its case; perhaps it might have somehow succeeded in gaining a decision of a lower Federal court. While, as has been stressed in this memorandum, the rules of "justiciability" of the Supreme Court may well have blocked such a suit, those rules, after all, are informal rules of practice, and one cannot predict with certainty their application. Instead, the port authority has self-righteously proposed that the committee should initiate declaratory judgment proceedings and has insinuated that it was the committee's fault that such proceedings could not be implemented. It has been the purpose of this memorandum to determine whether this suggestion had any legal merit and whether the committee might have, if it so choose, instituted or implemented such an action.

One is left with some doubt as to whether this suggestion was preceded by grave and considerable reflection.

1. The committee presently lacks authority to sue for any judicial judgment, whether declaratory or otherwise (*Reed* v. *Board of Commissioners of Delaware County, supra*).

2. This proposition alone should dispose of the suggestion. But, in an effort to explore all possibilities, it has also been demonstrated that grave doubt exists even as to whether Congress might constitutionally authorize the committee to seek such a declaratory judgment at this state of the port authority inquiry. It is not clear at what stage a "case" or "controversy" exists, and Congress cannot ask the courts to take jurisdiction over a matter which does not involve a "case" or "controversy" (*Muskrat* v. *United States*).

3. Putting that question aside, this memorandum further strongly suggests that even if the committee was legally authorized to seek a declaratory judgment, the Supreme Court, whose decision of course would ultimately be sought, would reject such a suit on its merits by applying one or a number of the rules of justiciability, which the Court keeps on hand to avoid unnecessary constitutional decision. Concurring opinion in *Ashwander* v. *TVA*, supra.

In this connection, it is noted that the committee appears to lack standing to sue, for it cannot claim that it was being injured by the assertion of its own authority, *Massachusetts* v. *Mellon*, supra. The suit moreover seems to involve many elements of a nonadversary, friendly, request for advice, which the Court so firmly rejects. Finally, constitutional decision on the issues is not absolutely necessary until the House decides to cite for contempt.

Therefore, it is submitted that the suggestion the committee might institute and maintain a declaratory judgment proceeding lacks merit as a matter of law, as well as being fundamentally deficient as a matter of policy. For the Supreme Court's attempt to limit decision on constitutional questions is not a matter of caprice or indolence. It is an integral, and a highly desirable tenet of constitutional government. To interfere with that policy of the Supreme Court or to take a position adverse to it should not be the function of the Judiciary Committee of the House of Representatives.

4. Furthermore, the port authority cannot maintain a suit against the members of the committee because under the doctrine of congressional immunity, and/or the doctrine of separation of powers, no court would have jurisdiction over such a suit. *Tenney* v. *Brandhove, supra; Kilbourn* v. *Thompson, supra; Hearst* v. *Black, supra; Mins* v. *McCarthy, supra; Methodist Federation* v. *Eastland, supra; Fishler* v. *McCarthy, supra.*

In view of the foregoing considerations and authorities, it is concluded that there is no legal merit in the suggestion that a suit for declaratory judgment might be brought in connection with the port authority inquiry.

ADDENDUM

In suggesting the declaratory judgment proceeding, the attorney general of New Jersey may have been inspired by a New Jersey case in which he, as deputy attorney general of New Jersey, participated on brief

[58] Id. at 71.

[59] *McChord* v. *Louisville Ry.*, 183 U.S. 483 (1902); *New Orleans Waterworks Co.* v. *New Orleans*, 164 U.S. 471 (1896); *Alpars* v. *San Francisco*, 32 F. 503 (C.C. —) (not within competence of court to enjoin exercise of legislative power by legislative body, even though legislative action threatened may be unconstitutional).

[60] See 7 Cannon's Precedents, sec. 2162 (1936).

for plaintiff-appellant. *Morss* v. *Forbes*, 24 N.J. 341, 132 A. 2d 1 (1957). There, a New Jersey county prosecutor was served with a subpena duces tecum issued by a committee of the State legislature requiring him to produce certain records. He refused to do so and instituted an action in the State courts against members of the committee for an injunction and declaratory judgment. The lower court (superior court, chancery division) assumed jurisdiction and decided against plaintiff. On appeal by the plaintiff, the Supreme Court of New Jersey declined to pass on the jurisdictional aspects of the case and determined to render a decision on the merits since the defendant committee members had withdrawn their objections to the jurisdiction and joined in the petition that the constitutionality of certain challenged State statutes be tested. However, the court warned that it was by no means opening its doors to such suits on a regular basis:

"We shall therefore adjudicate the validity of the last-cited statute, but this is by no means to be considered a precedent establishing a procedure whereby anyone who feels he might be 'put upon' by the subpena or questions of a legislative committee can turn to the courts for a declaratory judgment vindicating his surmise." (132 A. 2d 6.)

In view of this language, it is highly doubtful that even the New Jersey Supreme Court, before which the attorney general of New Jersey practices, would take jurisdiction over a suit for a declaratory judgment brought by the port authority against members of the committee, assuming that somehow venue and service in New Jersey could be obtained. Such a suit, as distnguished from the action in *Morss* v. *Forbes, supra*, would involve a challenge to the validity of the action of Congress, not the New Jersey Legislature, and would call for resolution of Federal constitutional issues. Moreover, as has been pointed out, the Federal courts and in particular the Supreme Court of the United States, have generally established far stricter standards of justiciability than the State courts. Hence, *Morss* v. *Forbes, supra*, would hardly convince the Federal courts to abandon their normal attitude as expressed, for example, in *Fishler* v. *McCarthy*, toward a suit seeking to nip congressional action in the bud.

The SPEAKER. The time of the gentleman from New Jersey [Mr. RODINO] has expired.

Mr. GROSS. Mr. Speaker, despite all the charges that have been leveled against the Port of New York Authority I have yet to hear an acceptable answer to my question as to why the legislature of New York or the legislature of New Jersey, or both, have taken no action.

And if the legislatures have failed it is difficult to believe that the Justice Departments of either or both of the two States and their attorneys general have been completely remiss in their duties and responsibilities.

It is my contention that the Judiciary Committee of the House of Representatives should have insisted that the legislative bodies of the two States, together with their justice departments, take forthright action to correct any wrongdoing that exists in the administration of the Port of New York Authority before calling upon all the Members of the House of Representatives to support such drastic action as the citing of certain officials for contempt.

It should be remembered that Congress granted the compact; it did not create the authority.

It should also be kept clearly in mind that Congress has granted many other compacts throughout the Nation. Does this action open the door to further invasions by Congress of other State administrations of authorities growing out of federally sanctioned compacts?

Mr. Speaker, it is difficult for me to believe that the States of New York and New Jersey are so irresponsible that it is necessary for the Federal Government to move in and put their public affairs in order.

It is difficult for me to believe that the citizens of those two States are so lacking in their sense of public responsibility that they would not insist that their officials resolve their difficulties in this respect.

To vote for these contempt citations is, in my opinion, an indictment not only of the public officials of the States of New York and New Jersey, but also an indictment of the millions of citizens.

I refuse to believe, without the benefit of documented evidence, that the Port of New York Authority is in the nature of a supergovernment which cannot be held accountable by the governments and the people of two great States.

I cannot and will not support the contempt citations until convincing evidence is provided that these States are incompetent through their governments to manage their own affairs.

Mr. CELLER. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and upon a division (demanded by Mr. LINDSAY) there were—ayes 190, noes 60.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Carrell, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 2633) entitled "An act to amend the Foreign Service Act of 1946, as amended, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. FULBRIGHT, Mr. SPARKMAN, Mr. MANSFIELD, Mr. HICKENLOOPER, and Mr. CAPEHART to be the conferees on the part of the Senate.

AMENDMENT OF FOREIGN SERVICE ACT OF 1946

Mr. HAYS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2633) to amend the Foreign Service Act of 1946, as amended, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? The Chair hears none, and appoints the following conferees: Mr. HAYS, Mrs. KELLY, Mr. FARBSTEIN, Mr. BENTLEY, and Mrs. BOLTON.

PROCEEDINGS AGAINST S. SLOAN COLT

Mr. CELLER. Mr. Speaker, I send to the desk a privilege report (Rept. No. 2120) from the Committee on the Judiciary in relation to the conduct of S. Sloan Colt.

The SPEAKER. The Clerk will read the report.

The Clerk read as follows:

PROCEEDINGS AGAINST S. SLOAN COLT

Subcommittee No. 5 of the Committee on the Judiciary, as created and authorized by the House of Representatives through the enactment of Public Law 601, section 121, of the 79th Congress, and under House Resolution 27 and House Resolution 530, both of the 86th Congress, caused to be issued a subpena duces tecum to S. Sloan Colt, chairman, board of commissioners of the Port of New York Authority, 111 Eighth Avenue, New York, N.Y. The subpena directed S. Sloan Colt to be and appear before Subcommittee No. 5 of the Committee on the Judiciary, at 10 a.m. on June 29, 1960, in their chamber in the city of Washington, and to bring with him from the files of the Port of New York Authority certain specified documents, and to testify touching matters of inquiry committed to the subcommittee.

The subpena was duly served as appears by the return made thereon by counsel for the committee who was duly authorized to serve the subpena.

S. Sloan Colt, pursuant to the subpena duly served upon him, appeared before Subcommittee No. 5 of the Committee on the Judiciary on June 29, 1960, to give testimony as required by Public Law 601, section 121, of the 79th Congress, and by House Resolutions 27 and 530 of the 86th Congress. However, S. Sloan Colt, having appeared as a witness and having complied in part with the subpena duces tecum served upon him by bringing with him part of the documents demanded therein, (1) failed and refused to produce certain other documents in compliance with the subpena duces tecum, which documents are pertinent to the subject matter under inquiry, and (2) failed and refused to produce certain documents as ordered by the subcommittee, which documents are pertinent to the subject matter under inquiry.

At those proceedings the subcommittee chairman explained in detail the authority for the subcommittee's inquiry, the purpose of the inquiry, and its scope. The subcommittee also gave to the witness a lengthy and detailed explanation of the pertinence to its inquiry of each category of documents demanded in the subpena served upon the witness. Notwithstanding these explanations and notwithstanding a direction by the subcommittee to produce the documents required by the subpena, S. Sloan Colt contumaciously refused to produce the following categories of documents under his control and custody:

(1) Internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;

(2) All agenda of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff; and

(3) All communications in the files of the Port of New York Authority and in the files of any of its officers and employees including correspondence, interoffice and other memorandums, and reports relating to:

(a) The negotiation, execution, and performance of construction contracts; negotiation, execution, and performance of insurance contracts, policies, and arrangements; and negotiation, execution, and per-

formance of the public relations contracts, policies, and arrangements;

(b) The acquisition, transfer, and leasing of real estate;

(c) The negotiation and issuance of revenue bonds;

(d) The policies of the authority with respect to the development of rail transportation.

The subcommittee was thereby deprived by S. Sloan Colt of information and evidence pertinent to matters of inquiry committed to it under House Resolutions 27 and 530, 86th Congress. His persistent and illegal refusal to supply the documents as ordered deprived the subcommittee of necessary and pertinent evidence and places him in contempt of the House of Representatives.

Incorporated herein as appendix I is the record of the proceedings before Subcommittee No. 5 of the Committee on the Judiciary on the return of the subpenas duces tecum served upon S. Sloan Colt and others. The record of proceedings contains, with respect to Mr. Colt:

(1) The full text of the subpena duces tecum (appendix, pp. 21–22);

(2) The return of service of the subpena by counsel for the committee, set forth in words and figures (appendix, p. 26);

(3) The failure and refusal of the witness to produce documents required by the subpena issued to and served upon him (appendix, pp. 23–25);

(4) The explanation given to the witness as to the authority for, purpose and scope of, the subcommittee's inquiry (appendix, pp. 1–20);

(5) The explanation given the witness of the pertinence of each category of requested documents (appendix, pp. 48–52);

(6) The subcommittee's direction to the witness to produce the required documents (appendix, pp. 52–53);

(7) The failure and refusal of the witness to produce the documents pursuant to direction (appendix, pp. 53–54);

(8) The ruling of the chairman that the witness is in default (appendix, p. 55).

OTHER PERTINENT COMMITTEE PROCEEDINGS

At the organizational meeting of the Committee on the Judiciary for the 86th Congress, held on the 27th day of January 1959, Subcommittee No. 5 was appointed and authorized to act upon matters referred to it by the chairman. On June 8, 1960, at an executive session of Subcommittee No. 5 of the Committee on the Judiciary, at which Chairman Emanuel Celler, Peter W. Rodino, Jr., Byron G. Rogers, Lester Holtzman, Herman Toll, William M. McCulloch, and George Meader were present, Subcommittee No. 5 formally instituted an inquiry into the activities and operations of the Port of New York Authority under the interstate compacts approved by Congress in 1921 and 1922. At that meeting the subcommittee also unanimously resolved to request the following specified items from the files of the Port of New York Authority by letter and to subpena the same documents from the appropriate officials in the event this information was not voluntarily supplied:

(1) All bylaws, organization manuals, rules, and regulations;

(2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;

(3) All agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff;

(4) All communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memorandums, and reports relating to—

(a) The negotiation, execution, and performance of construction contracts; negotiation, execution, and performance of insurance contracts, policies, and arrangements; and negotiation, execution, and performance of public relations contracts, policies, and arrangements;

(b) The acquisition, transfer, and leasing of real estate;

(c) The negotiation and issuance of revenue bonds;

(d) The policies of the authority with respect to the development of rail transportation.

On June 29, 1960, following the appearance of the aforesaid witness, Subcommittee No. 5 of the Committee on the Judiciary, at an executive session at which all members of the subcommittee were present, unanimously resolved to report the contumacious conduct of S. Sloan Colt and others to the Committee on the Judiciary with the recommendation that the committee report this conduct to the House of Representatives together with all particulars and recommend that the House cite S. Sloan Colt for contempt of the House of Representatives.

At an executive session on June 30, 1960, the Committee on the Judiciary approved the recommendations of Subcommittee No. 5 to report to the House all details concerning the contumacious conduct of S. Sloan Colt and others, and resolved to recommend that S. Sloan Colt be cited for contempt of the House of Representatives.

MINORITY VIEWS OF REPRESENTATIVE JOHN V. LINDSAY

I cannot agree with the majority recommendations in the committee report. The committee proceeding, calculated to form a basis for contempt citations under title 2, United States Code, section 192, in my opinion constitutes an unprecedented, unlawful, and unconstitutional exercise of federal authority over a bistate agency, which can and should be avoided. The Port of New York Authority was created by the States of New York and New Jersey with the consent of Congress to exercise delegations of State, not Federal, powers.

My objections are threefold: (1) The committee acted without legal authority and exceeded its jurisdiction; (2) the committee lacked a legislative purpose in inquiring into the internal affairs of a bistate agency; and (3) the committee inadvisably and without caution initiated an unprecedented exercise of Federal control in the delicate area of State sovereignty despite the pleas of the two interested Governors to be accorded a hearing before the return date of the subpenas. As a result, and I emphasize this point, the documentary material, which the witnesses did not produce, was withheld pursuant to written instructions from Governors Rockefeller and Meyner. The witnesses were damned if they complied with the subpenas and damned if they didn't.

These three witnesses, who now face the threat of criminal prosecution, are not hoodlums nor men who have ever flouted the law. Each is a public official of distinguished reputation in his community.

S. Sloan Colt, the authority chairman, has served without salary as a port authority commissioner for the past 14 years by appointment of Governors Dewey and Harriman of New York, bringing to its board his vast experience as a leading executive in the banking field. He also served the Federal Government as a member of the Clay Committee on Highway Grants-in-Aid and has been a director of the Federal Reserve bank. During World War II, he served as the national chairman of the American Red Cross War Fund, and for the last decade has been president of the National Fund for Medical Education.

Executive Director Austin J. Tobin has been a port authority staff member for 33 years, rising through its ranks from law clerk to his present position as the chief administrative officer responsible for the execution of decisions of the board of commissioners. Mr. Tobin has served as port consultant to the Government of Thailand and to the World Bank in connection with port development in Israel. Both he and Mr. Colt have been honored by the Government of France with the Order of Legion of Honor Chevalier for their contributions to airport development and with honorary degrees from leading American universities for their outstanding public service.

Mr. Joseph G. Carty, the authority secretary, has served the post authority for over 30 years. A Navy veteran of World War I, he has been active in the National and State leadership of the American Legion for the last 40 years, including a term as New Jersey State commander. He is now a member of the Legion's national legislative commission and serves on the New Jersey State Veterans Service Council.

In the light of their record of public and civic service, it is not surprising that these witnesses felt bound to obey the instructions of their superior officers, the Governors of New Jersey and New York, governing their response to the committee's subpenas. They sought, as they were instructed to do, postponement of the proceedings to give their Governors an opportunity to be heard personally. Within the scope of their instructions from their superiors, they attempted to cooperate fully with the committee by producing a mass of records detailing all the activities of the authority and by offering to answer any questions which the committee might wish to ask.

Congress, which has as great a duty as any court to protect the liberties of individuals who appear before its committees, and, likewise, to preserve State sovereignty, should not, in disregard of conciliatory pleas to be heard by the chief executives of the two States, precipitate a naked fight of Federal versus State power.

Congress consented to the compact between New York and New Jersey creating the Port of New York Authority. It did not create the authority. All the powers exercised by the authority are delegated to it by the Legislatures of New York and New Jersey.

The commissioners are appointed by the Governors of the respective States subject to the advice and consent of their senates. The port authority can only act through its commissioners; no action by them is binding unless taken at a meeting, and even then not until the minutes have been transmitted to the Governors, each of whom has 10 days within which to veto any action therein recited as having been taken by any commissioner appointed from his State. The chief financial officers of each State are authorized to audit the books of the port authority. The port authority is required to submit an annual report to the legislatures of the two States, setting forth in detail the operations and transactions conducted by it pursuant to the authority granted in the compact and supplemental legislation.

The port authority was created by the States of New York and New Jersey. It is fully subject to their control. It is their agency, not a Federal agency. Authoritative decisions in both the State and Federal courts conclusively establish the port authority's status as an agency of the States which created it to serve as their local port development agency and refute the suggestion that the consent of Congress to the port compact changed the port authority's status as a State agency (*Commissioner of Internal Revenue* v. *Shamberg*, 144 F. 2d, 998 (1944), cert. den. 323 U.S. 792 (1945)).

Since the brief of the committee's counsel in support of the investigation of the Port of New York Authority challenges this conclusion without citing any applicable judicial authority, it will suffice here to note that the National Association of Attorneys General, composed of the chief legal officers of all the States, has recently reported:

"The obvious truth that the (Port of New York) Authority is a State agency and nothing else has been authoritatively and expressly determined by both Federal and State courts" (National Association of Attorneys General, "Memorandum Re Citation of State Officials for Contempt of Congress," July 22, 1960, p. 4).

Although Congress reserved the right to alter, amend, or repeal the resolution consenting to the port compact, this did not create power to amend the compact itself, which can only be altered by the contracting States. Nor can this reservation in the congressional consent reasonably be construed to vest in Congress the right to control the internal management or daily affairs of the compact agency. On this point, the National Association of Attorneys General makes the following statement:

"In this case, the interest of Congress in interstate compacts derives from one fact: the power of consent conferred over certain types of compacts so as to insure that particular compacts do not adversely affect the relationships of governmental units within the Federal system (*Virginia* v. *Tennessee*, 148 U.S. 503 (1893)). For Congress to satisfy itself on this score, it is neither necessary nor relevant to examine the internal management of agencies established by compact. The information on which such determinations depend relates to the results of agency operations and to the character of the programs conducted. These are revealed in observable activities and not in internal cerebrations."

The officials of the port authority voluntarily provided to the committee staff, and formally produced on the return date of the subpena, a mass of materials fully revealing in detail the nature and extent of the operations of the port authority (the bylaws, rules and regulations, annual reports, and the minutes of all the meetings of its commissioners recording all actions of the port authority).

Counsel for the committee was apparently not confident that it could safely rely solely upon the compact clause of the Constitution to justify the sweeping demand for additional data relating solely to the internal affairs of the bistate agency. There was, therefore, also invoked in support of the committee's asserted authority, the commerce clause, the duty to provide for the national defense, the duty to insure that the authority's activities are consistent with the requirements of Federal regulatory agencies, and an asserted Federal concern with construction contracts, insurance matters, and public relations activities of the port agency.

The Council of State Governments noted in the memorandum on this matter which it sent to the Governors of all the States, "The grounds set forth by the Judiciary Committee would apply in similar degree to many agencies of State and local governments." The council concluded:

"Indeed, it seems unlikely that if the Judiciary Committee's present attempt to investigate the internal affairs and conduct of a State agency succeeds and if the grounds being advanced by that committee are established, any State or municipal agency could resist inquiry into, and congressional pressure on, its operations and administration" (Council of State Governments, "Memorandum re Threatened Congressional Investigation of State Agencies," July 19, 1960, pp. 1–2).

The committee is not entitled under the Constitution and the Rules of the House to the data relating to the internal affairs of the bistate agency. The Committee on the Judiciary has jurisdiction only under article I, section 10, clause 3 of the Constitution ("No State shall, without the consent of Congress * * * enter into any agreement or compact with another State"), rule XI, section 12, item (i) of the Rules of the House (interstate compacts generally) and House Resolution 27 as amended by House Resolution 530 (involving the activities and operations of interstate compacts). The committee's jurisdiction in this case, it is evident, is confined to the breadth and scope of the compact clause of the Constitution.

Congressional jurisdiction under the commerce clause, to the extent it exists, to inquire into the effect of the port authority's operations on interstate and foreign commerce, is vested in the Committee on Interstate and Foreign Commerce, not in the Committee on the Judiciary.

Similarly, the jurisdiction of Congress to inquire into whether various Federal agencies have properly discharged their duties, under Federal legislation of general application, with respect to specific aspects of port authority activities is vested in the Committee on Government Operations, not in the Committee on the Judiciary. National defense, construction of Federal projects, regulation of insurance, and the Federal interest, if any, in the public relations activities of local port agencies are all within the province of committees other than the Committee on the Judiciary.

Suffice it to say that the Committee on the Judiciary got the documentary material to which it is entitled under the Constitution and the rules of the House. It did not request and it did not receive any broader delegation of authority from the House under House Resolution 27 as amended by House Resolution 530. The investigation can be no broader than the authorizing resolution.[1]

That delegation did not include investigation into wholly internal affairs of any State agency, whether created by compact or otherwise.

Lacking jurisdiction to conduct a broader investigation, the committee is also without a valid legislative purpose to inquire into the internal affairs of the port authority. To repeat, legislative purpose under the compact clause of the Constitution and the power reserved in the original resolution of approval can only extend to altering, amending, or repealing the resolution of approval. The Committee on the Judiciary cannot recommend legislation to alter, amend, or repeal the original agreement between the two States. Likewise, the committee cannot recommend legislation to otherwise regulate interstate and foreign commerce in this area.

As long ago as 1881 the Supreme Court in *Kilbourn* v. *Thompson* (103 U.S. 168) held that Congress has no right in the absence of a valid legislative purpose to inquire into purely private affairs. In 1936, a Federal district court on complain of the United States enjoined the Pennsylvania State Legislature's attempt to conduct an investigation into the organization, administration, and functioning of the Works Progress Administration in Pennsylvania (*United States* v. *Owlett*, 15 F. Supp. 736. The Federal court there condemned the assertion of power by one partner in the Federal system over the internal affairs of the other as being "in contravention of our dual form of government" (p. 742)). By clear analogy, Congress has no right to inquire into the purely internal affairs of an agency of the two sovereign States of New York and New Jersey.

As recently as June 1959, the Supreme Court in *Barenblatt* v. *United States* (360 U.S. 109) spoke of the limitations of congressional investigations. In that case the Court stated:

"Broad as it is, the power is not, however, without limitations. Since Congress may only investigate into those areas in which it may potentially legislate or appropriate, it cannot inquire into matters which are within the exclusive province of one or the other branch of the Government. Lacking the judicial power given to the judiciary, it cannot inquire into matters that are exclusively the concern of the judiciary. Neither can it supplant the Executive in what exclusively belongs to the Executive. And the Congress, in common with all branches of the Government, must exercise its powers subject to the limitations placed by the Constitution on governmental action, more particularly in the context of this case the relevant limitations of the Bill of Rights."[2]

In the leading case of *McGrain* v. *Daugherty* (273 U.S. 135 (1937)), as in later decisions, the Court recognized that a witness has a right to refuse to answer when an investigation exceeds lawful limits. In that case the Court stated:

"We must assume, for present purposes, that neither House will be disposed to exert the power beyond its proper bounds, or without due regard to the rights of witnesses. But if, contrary to this assumption, controlling limitations or restrictions are disregarded, the decisions in *Kilbourn* v. *Thompson* and *Marshall* v. *Gordon* point to admissible measures of relief. And it is a necessary deduction from the decisions in *Kilbourn* v. *Thompson* and *In re Chapman* that a witness rightfully may refuse to answer where the bounds of the power are exceeded or the questions are not pertinent to the matter under inquiry".[3]

Thus to summarize, the committee may not exceed its jurisdiction (it is no argument to say that the House under all of the authority vested by the Constitution may have jurisdiction) and it may not conduct investigations into matters over which it has no authority to recommend legislation.

It also must be remembered that legislatures are ultimate guardians of the liberties of the people in quite as great a degree as the courts. Evidently the committee realized it was traveling too far too fast in this direction since it belatedly recommended withholding the report of the witnesses' alleged contumacious conduct pending the results of an after-the-fact invitation to the two Governors to present their views.

Now that the alleged contumacious conduct has been reported, I urge restraint and a reappraisal of the vital issues of Federal-State relationship before voting to commit the House of Representatives to an uncompromising and, I believe, unsound position.

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[1] In *Watkins* v. *United States*, 354 U.S. 178 (1957), at p. 201 the Court stated:

"An essential premise in this situation is that the House or Senate shall have instructed the committee members on what they are to do with the power delegated to them. It is the responsibility of the Congress, in the first instance, to insure that compulsory process is used only in furtherance of a legislative purpose. That requires that the instructions to an investigating committee spell out that group's jurisdiction and purpose with sufficient particularity. Those instructions are embodied in the authorizing resolution. That document is the committee's charter."

[2] 360 U.S. at pp. 111, 112.

[3] 273 U.S. at pp. 175, 176.

Minority Views of Representative John H. Ray

The majority of the Judiciary Committee recommends that contempt citations under title 2, United States Code, section 192, be issued against the chairman, the executive director, and the secretary of the Port of

New York Authority. In my opinion the action so recommended by the majority would not only be unprecedented and unwise as a matter of Federal and State relations, it is not sanctioned by law and should and would be held unconstitutional.

The port authority was created by the States of New York and New Jersey pursuant to an agreement or compact authorized by special legislation enacted by each of those States. The compact defined the nature and scope of the powers and duties which the two States desired to grant to and impose upon the port authority. Before the compact could take effect, it was necessary that the States obtain, and they did obtain consent of Congress to the making of the compact (Public Law 17, approved August 23, 1921, Public Law 66, approved July 1, 1922). Since the latter date, the port authority has operated under direct delegations of authority, and only as so authorized, by the Legislatures of New York and New Jersey.

Congress did not create the authority. The powers exercised by the authority were delegated to it by the Legislatures of New York and New Jersey. Congress lacks constitutional authority to alter the terms of the compact between the two contracting States. Congress reserved the right to alter, amend, or repeal the resolution by which it gave consent to the compact. Congress did not have power and it did not attempt to reserve any other right to supervise or to regulate activities of the bistate agency which the two States established.

I repeat Congress only reserved the right to alter, amend, or repeal its resolution consenting to the compact, and that the compact itself can be altered only by the contracting States. Therefore, no valid legislative purpose could be served by the committee subpena involved in this case.

Earlier this year the Judiciary Committee instituted the present investigation. The majority opinion of the committee sets forth accurately the developments in the investigation which resulted in the contempt citations. It is not necessary here to repeat details of that history, but I do wish to emphasize that on the return date specified in the subpena, the three officials of the port authority appeared and delivered to the committee all the minutes, financial reports, audits, and all records authorizing official action. On instructions of the Governors of the States of New York and New Jersey, port authority officials declined to furnish the working papers and other strictly internal studies specified in paragraphs (1), (2), and (3) on page 2 of the majority report. I submit such actions by the Governors and by the officials of the port authority are lawful and that the only unlawful action indicated by the record is that of the Judiciary Committee in demanding and now insisting upon the production of the material which was not furnished.

The action recommended by the committee violates the constitutional rights of the States involved and the committee is attempting such action without any semblance of lawful authority.[1]

Mr. CELLER (interrupting the reading of the report). Mr. Speaker, I ask unanimous consent that the further reading of the report be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

[1] The cases in point: *Graves* v. *New York ex rel. O'Keefe*, 306 U.S. 466, 484 (1938); *Commissioner of Internal Revenue* v. *Shamberg's Estate*, 144 F. 2d 998, certiorari denied, 323 U.S. 792 (1944).

Mr. CELLER. Mr. Speaker, I offer a privileged resolution (H. Res. 607) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on the Judiciary as to the contumacious conduct of S. Sloan Colt in failing and refusing to furnish certain documents in compliance with a subpena duces tecum of a duly constituted subcommittee of said committee served upon him and as ordered by the subcommittee, together with all of the facts in connection therewith, under seal of the House of Representatives, to the United States attorney for the District of Columbia, to the end that S. Sloan Colt may be proceeded against in the manner and form provided by law.

Mr. CELLER. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

Mr. LINDSAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. LINDSAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and three Members are present, not a quorum.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 270, nays 124, answered "present" 0, not voting 37, as follows:

[Roll No. 183]

YEAS—270

Addonizio	Brown, Ga.	Flood
Albert	Brown, Mo.	Flynn
Alexander	Brown, Ohio	Flynt
Alford	Buckley	Fogarty
Allen	Burke, Ky.	Foley
Andersen, Minn.	Byrne, Pa.	Ford
Anderson, Mont.	Cahill	Forrester
Anfuso	Canfield	Fountain
Arends	Cannon	Frazier
Ashley	Carnahan	Frelinghuysen
Ashmore	Celler	Friedel
Aspinall	Chamberlain	Fulton
Avery	Chelf	Garmatz
Ayres	Chenoweth	Gary
Bailey	Church	Gavin
Baldwin	Clark	George
Barr	Coad	Giaimo
Barrett	Cook	Gilbert
Barry	Cooley	Granahan
Bass, N.H.	Corbett	Gray
Bass, Tenn.	Daddario	Green, Pa.
Bates	Davis, Ga.	Griffin
Beckworth	Delaney	Griffiths
Belcher	Dent	Gubser
Bennett, Fla.	Denton	Hagen
Bennett, Mich.	Derwinski	Halleck
Bentley	Diggs	Hardy
Betts	Dingell	Hargis
Blatnik	Dixon	Harmon
Blitch	Donohue	Harris
Boland	Downing	Harrison
Bolton	Doyle	Hays
Bonner	Dulski	Healey
Bow	Durham	Hechler
Boykin	Dwyer	Hemphill
Brademas	Edmondson	Henderson
Breeding	Everett	Hogan
Brewster	Farbstein	Holland
Brooks, Tex.	Fascell	Holtzman
	Feighan	Horan
	Fisher	Huddleston
	Flood	Hull
	Flynn	Inouye
	Flynt	Irwin
	Fogarty	Jackson
	Foley	Jarman
	Ford	Jennings
	Forrester	Johansen
	Fountain	Johnson, Calif.
	Frazier	Johnson, Colo.
	Frelinghuysen	Johnson, Md.
	Friedel	Johnson, Wis.
	Fulton	Jonas
	Garmatz	Jones, Ala.
	Gary	Karsten
	Gavin	Karth
	George	Kastenmeier
	Giaimo	Kearns
	Gilbert	Kee
	Granahan	Keith
	Gray	Kelly
	Green, Pa.	Keogh
	Griffin	Kilday
	Griffiths	Kilgore
	Gubser	King, Calif.
	Hagen	King, Utah
	Halleck	Kitchin
	Hardy	Kluczynski
	Hargis	Knox
	Harmon	Kowalski
	Harris	Lane
	Harrison	Lankford
	Hays	Latta
	Healey	Lennon
	Hechler	Lesinski
	Hemphill	Levering
	Henderson	Libonati
	Hogan	Lipscomb
	Holland	Loser
	Holtzman	McCormack
	Horan	McCulloch
	Huddleston	McDonough
		McFall
		McGovern
		Macdonald
		Machrowicz
		Mack
		Madden
		Mahon
		Mailliard
		Marshall
		Meader
		Merrow
		Metcalf
		Meyer
		Michel
		Miller, Clem
		Mills
		Moeller
		Monagan
		Montoya
		Moore
		Moorhead
		Morgan
		Morris, N. Mex.
		Morris, Okla.
		Moss
		Moulder
		Multer
		Murphy
		Natcher
		Nix
		Norblad
		O'Brien, Ill.
		O'Hara, Ill.
		O'Hara, Mich.
		O'Konski
		Patman
		Pelly
		Perkins
		Pfost
		Philbin
		Pilcher
		Pillion
		Porter
		Price
		Prokop
		Pucinski
		Quigley
		Rabaut
		Randall
		Rees, Kans.
		Reuss
		Rhodes, Pa.
		Rivers, Alaska
		Rodino
		Rogers, Colo.
		Rogers, Fla.
		Rooney
		Roosevelt
		Rostenkowski
		Roush
		Rutherford
		Santangelo
		Saund
		Saylor
		Schenck
		Scherer
		Scott
		Shelley
		Sheppard
		Shipley
		Short
		Sikes
		Sisk
		Slack
		Smith, Calif.
		Smith, Iowa
		Smith, Va.
		Spence
		Staggers
		Steed
		Stubblefield
		Sullivan
		Taylor, N.C.
		Teague, Tex.
		Teller
		Thompson, Tex.
		Thornberry
		Toll
		Trimble
		Tuck
		Ullman
		Vanik
		Wainwright
		Wallhauser
		Walter
		Wampler
		Watts
		Whitener
		Widnall
		Wier
		Willis
		Wilson
		Wolf
		Wright
		Yates
		Young
		Zablocki
		Zelenko

NAYS—124

Abbitt	Fallon	Ostertag
Abernethy	Fenton	Passman
Adair	Fino	Pirnie
Alger	Gallagher	Poage
Andrews	Gathings	Poff
Auchincloss	Glenn	Rains
Baker	Goodell	Ray
Becker	Green, Oreg.	Reece, Tenn.
Berry	Gross	Rhodes, Ariz.
Bosch	Haley	Richlman
Bray	Halpern	Riley
Brock	Herlong	Rivers, S.C.
Brooks, La.	Hiestand	Roberts
Broomfield	Hoeven	Robison
Broyhill	Hoffman, Ill.	Rogers, Tex.
Budge	Hoffman, Mich.	St. George
Burke, Mass.	Holt	Schneebeli
Burleson	Hosmer	Schwengel
Byrnes, Wis.	Jensen	Selden
Casey	Jones, Mo.	Siler
Cederberg	Judd	Simpson
Chiperfield	Kasem	Smith, Miss.
Coffin	Kyl	Springer
Cohelan	Lafore	Stratton
Collier	Laird	Taber
Colmer	Langen	Teague, Calif.
Conte	Lindsay	Thompson, N.J.
Cramer	McDowell	Thomson, Wyo.
Cunningham	McGinley	Tollefson
Curtin	McIntire	Utt
Curtis, Mass.	McMillan	Van Pelt
Curtis, Mo.	Mason	Van Zandt
Dague	Matthews	Weaver
Daniels	May	Weis
Derounian	Miller, N.Y.	Westland
Devine	Milliken	Wharton
Dooley	Minshall	Whitten
Dorn, N.Y.	Mumma	Williams
Dorn, S.C.	Nelsen	Winstead
Dowdy	O'Brien, N.Y.	Younger
Elliott	O'Neill	
Evins	Osmers	

NOT VOTING—37

Barden	Forand	Landrum
Baring	Grant	McSween
Baumhart	Hébert	Magnuson
Boggs	Hess	Martin
Bolling	Holifield	Miller, George P.
Bowles	Ikard	Mitchell
Davis, Tenn.	Kilburn	Morrison
Dawson	Kirwan	

Murray	Quie	Thompson, La.
Norrell	Rogers, Mass.	Udall
Oliver	Smith, Kans.	Vinson
Powell	Taylor, N.Y.	Withrow
Preston	Thomas	

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Taylor of New York against.

Mr. Morrison for, with Mr. Kilburn against.

Until further notice:

Mr. Thompson of Louisiana with Mr. Martin.

Mr. Magnuson with Mr. Hess.

Mr. Oliver with Mr. Quie.

Mr. George P. Miller with Mr. Baumhart.

Mr. Holifield with Mr. Withrow.

Mr. Powell with Mrs. Rogers of Massachusetts.

Mr. Baring with Mr. Smith of Kansas.

Mr. ANDERSON of Montana changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

PROCEEDINGS AGAINST JOSEPH G. CARTY

Mr. CELLER. Mr. Speaker, by direction of the Committee on the Judiciary, I submit a privilege report (Rept. No. 2121), concerning the contumacious conduct of Joseph G. Carty.

The Clerk read as follows:

PROCEEDINGS AGAINST JOSEPH G. CARTY

Subcommittee No. 5 of the Committee on the Judiciary, as created and authorized by the House of Representatives through the enactment of Public Law 601, section 121, of the 79th Congress, and under House Resolution 27 and House Resolution 530, both of the 86th Congress, caused to be issued a subpena duces tecum to Joseph G. Carty, secretary, of the Port of New York Authority, 111 Eighth Avenue, New York, N.Y. The subpena directed Joseph G. Carty to be and appear before Subcommittee No. 5 of the Committee on the Judiciary, at 10 a.m. on June 29. 1960, in their chamber in the city of Washington, and to bring with him from the files of the Port of New York Authority certain specified documents, and to testify touching matters of inquiry committed to the subcommittee.

The subpena was duly served as appears by the return made thereon by counsel for the committee who was duly authorized to serve the subpena.

Joseph G. Carty, pursuant to the subpena duly served upon him, appeared before Subcommittee No. 5 of the Committee on the Judiciary on June 29, 1960, to give testimony as required by Public Law 601, section 121, of the 79th Congress, and by House Resolutions 27 and 530 of the 86th Congress. However, Joseph G. Carty having appeared as a witness and having complied in part with the subpena duces tecum served upon him by bringing with him part of the documents demanded therein, (1) failed and refused to produce certain other documents in compliance with the subpena duces tecum, which documents are pertinent to the subject matter under inquiry, and (2) failed and refused to produce certain documents as ordered by the subcommittee, which documents are pertinent to the subject matter under inquiry.

At those proceedings the subcommittee chairman explained in detail the authority for the subcommittee's inquiry, the purpose of the inquiry, and its scope. The subcommittee also gave to the witness a lengthy and detailed explanation of the pertinence to its inquiry of each category of documents demanded in the subpena served upon the witness. Notwithstanding these explanations and notwithstanding a direction by the subcommittee to produce the documents required by the subpena, Joseph G. Carty contumaciously refused to produce the following categories of documents under his control and custody:

(1) Internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;

(2) All agenda of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff, and

(3) All communications in the files of the Port of New York Authority and in the files of any of its officers and employees including correspondence, interoffice and other memorandums, and reports relating to—

(a) The negotiation, execution, and performance of construction contracts; negotiation, execution, and performance of insurance contracts, policies, and arrangements; and negotiation, execution, and performance of public relations contracts, policies, and arrangements;

(b) The acquisition, transfer, and leasing of real estate;

(c) The negotiation and issuance of revenue bonds;

(d) The policies of the authority with respect to the development of rail transportation.

The subcommittee was thereby deprived by Joseph G. Carty of information and evidence pertinent to matters of inquiry committed to it under House Resolutions 27 and 530, 86th Congress. His persistent and illegal refusal to supply the documents as ordered deprived the subcommittee of necessary and pertinent evidence and places him in contempt of the House of Representatives.

Incorporated herein as appendix I is the record of the proceedings before Subcommittee No. 5 of the Committee on the Judiciary on the return of the subpenas duces tecum served upon Joseph G. Carty and others. The record of proceedings contains, with respect to Mr. Carty—

(1) The full text of the subpena duces tecum (appendix, pp. 26–27);

(2) The return of service of the subpena by counsel for the committee, set forth in words and figures (appendix, p. 26);

(3) The failure and refusal of the witness to produce documents required by the subpena issued to and served upon him (appendix, pp. 27–31);

(4) The explanation given to the witness as to the authority for, purpose and scope of, the subcommittee's inquiry (appendix, pp. 1–20);

(5) The explanation given the witness of the pertinence of each category of requested documents (appendix, pp. 48–52);

(6) The subcommittee's direction to the witness to produce the required documents (appendix p. 55);

(7) The failure and refusal of the witness to produce the documents pursuant to direction (appendix, p. 55); and

(8) The ruling of the chairman that the witness is in default (app. p. 55).

OTHER PERTINENT COMMITTEE PROCEEDINGS

At the organizational meeting of the Committee on the Judiciary for the 86th Congress, held on the 27th day of January 1959, Subcommittee No. 5 was appointed and authorized to act upon matters referred to it by the chairman. On June 8, 1960, at an executive session of Subcommittee No. 5 of the Committee on the Judiciary, at which Chairman EMANUEL CELLER, PETER W. RODINO, Jr., BYRON G. ROGERS, LESTER HOLTZMAN, HERMAN TOLL, WILLIAM M. MCCULLOCH, and GEORGE MEADER were present, Subcommittee No. 5 formally instituted an inquiry into the activities and operations of the Port of New York Authority under the interstate compacts approved by Congress in 1921 and 1922. At that meeting the subcommittee also unanimously resolved to request the following specified items from the files of the Port of New York Authority by letter and to subpena the same documents from the appropriate officials in the event this information was not voluntarily supplied:

(1) All bylaws, organization manuals, rules, and regulations;

(2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;

(3) All agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff;

(4) All communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memorandums, and reports relating to—

(a) The negotiation, execution, and performance of construction contracts; negotiation, execution, and performance of insurance contracts, policies, and arrangements; and negotiation, execution, and performance of public relations contracts, policies, and arrangements;

(b) The acquisition, transfer, and leasing of real estate;

(c) The negotiation and issuance of revenue bonds;

(d) The policies of the authority with respect to the development of rail transportation.

On June 29, 1960, following the appearance of the aforesaid witness, Subcommittee No. 5 of the Committee on the Judiciary, at an executive session at which all members of the subcommittee were present, unanimously resolved to report the contumacious conduct of Joseph G. Carty and others to the Committee on the Judiciary with the recommendation that the committee report this conduct to the House of Representatives together with all particulars and recommend that the House cite Joseph G. Carty for contempt of the House of Representatives.

At an executive session on June 30, 1960, the Committee on the Judiciary approved the recommendations of Subcommittee No. 5 to report to the House all details concerning the contumacious conduct of Joseph G. Carty and others, and resolved to recommend that Joseph G. Carty be cited for contempt of the House of Representatives.

MINORITY VIEWS OF REPRESENTATIVE JOHN V. LINDSAY

I cannot agree with the majority recommendations in the committee report. The committee proceeding, calculated to form a basis for contempt citations under title 2, United States Code, section 192, in my opinion constitutes an unprecedented, unlawful, and unconstitutional exercise of Federal authority over a bistate agency, which can and should be avoided. The Port of New York Authority was created by the States of New York and New Jersey with the consent of Congress to exercise delegations of State, not Federal, powers.

My objections are threefold: (1) The committee acted without legal authority and exceeded its jurisdiction; (2) the committee lacked a legislative purpose in inquiring into the internal affairs of a bistate agency; and (3) the committee inadvisably and without caution initiated an unprecedented exercise of Federal control in the delicate area of State sovereignty despite the pleas of the